

TWENTY-THIRD DAY
(Monday, February 20, 1995)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Sims.

A quorum was announced present.

Pastor Will Davis, Jr., Austin Christian Fellowship, Austin, offered the invocation as follows:

Almighty God, we acknowledge Your greatness today, and we acknowledge our dependence upon You. We thank You for the occasion that warrants this gathering today, and we ask for You to be a very real part of it. I thank You for these men and women, these who have been selected by the people of Texas and by You to be public servants. I pray that they would fully embrace the gravity of their task, and that they would serve humbly and with a true sense of the stewardship that is theirs. Father, Your word says that if we ask for wisdom that You will grant it; and we ask today for these leaders. May the wisdom that they manifest today go far beyond what would normally, naturally be theirs. Give them a sense of what is true, and right, and good, and best for this great state. And now, Father, may all that happens here today be consistent ultimately with Your great ways. We pray these things in Your name. Amen.

On motion of Senator Leedom and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 16, 1995, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Truan, Senator Sims was granted leave of absence for today on account of illness.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 24

On motion of Senator Patterson and by unanimous consent, Senator Brown will be shown as Co-author of **S.C.R. 24**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 46

On motion of Senator Nelson and by unanimous consent, Senator Brown will be shown as Co-author of **S.C.R. 46**.

CO-AUTHOR OF SENATE BILL 27

On motion of Senator Sims and by unanimous consent, Senator Brown will be shown as Co-author of **S.B. 27**.

CO-AUTHORS OF SENATE BILL 83

On motion of Senator Shapiro and by unanimous consent, Senators Brown and Lucio will be shown as Co-authors of **S.B. 83**.

CO-AUTHOR OF SENATE BILL 165

On motion of Senator Leedom and by unanimous consent, Senator West will be shown as Co-author of **S.B. 165**.

CO-AUTHOR OF SENATE BILL 213

On motion of Senator Sims and by unanimous consent, Senator Patterson will be shown as Co-author of **S.B. 213**.

CO-AUTHOR OF SENATE BILL 445

On motion of Senator Luna and by unanimous consent, Senator Gallegos will be shown as Co-author of **S.B. 445**.

MESSAGE FROM THE HOUSE

House Chamber
February 20, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 19, Commemorating the 75th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution.

H.C.R. 61, Designating February 22, 1995, as Rusk County Day.

H.C.R. 63, Designating February 23, 1995, as Panola County Day.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

GUEST PRESENTED

Senator Rosson was recognized and introduced to the Senate her mother, Mrs. Elsie Bishop Mulry of Indianapolis, Indiana.

The Senate welcomed Mrs. Mulry.

(Senator Leedom in Chair)

GUEST PRESENTED

Senator Gallegos was recognized and introduced to the Senate Houston Fire Chief Eddie Corral, who is the first Hispanic fire chief of Houston.

The Senate welcomed Chief Corral.

(President in Chair)

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate:

H.C.R. 15

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

S.J.R. 36 by Montford, Brown Finance
Proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation certain property of certain organizations chartered by the Congress of the Republic of Texas.

S.C.R. 61 by Harris Natural Resources
Requesting the United States Congress to reconsider the requirement of stormwater discharge permits for cities having a population of fewer than 100,000.

S.C.R. 62 by Rosson Administration
Granting Cleola Sweed permission to sue the state and the Texas Department of Human Services.

S.B. 589 by Brown Finance
Relating to the funding of the Texas Real Estate Research Center from certain real estate broker and salesman fees.

S.B. 590 by Brown Natural Resources
Subcommittee on Agriculture
Relating to the authority of the Department of Agriculture to sell advertisements in its publications.

S.B. 591 by Barrientos Education
Relating to parental involvement and education programs in public schools.

S.B. 592 by Barrientos Education
Relating to the dismissal of certain school employees.

S.B. 595 by Bivins Intergovernmental Relations
Relating to granting counties authority to abate a public nuisance on certain property and assess costs of abatement.

S.B. 596 by Ellis, Zaffirini Economic Development
Relating to the consolidation of certain programs regarding job training, labor, and employment, the creation of a statewide workforce development system, and the creation and operation of the Texas Workforce Development Department.

S.B. 599 by Montford Criminal Justice
Relating to inmate grievances and frivolous or malicious litigation filed by inmates.

- S.B. 606** by Zaffirini, Nelson, Moncrief Health and Human Services
Relating to the detection and prevention of osteoporosis; making an appropriation.
- S.B. 607** by Zaffirini, Moncrief Health and Human Services
Relating to benefits for the detection and prevention of osteoporosis under group health insurance policies.
- S.B. 608** by Madla Health and Human Services
Relating to provisional certification of certain emergency medical personnel.
- S.B. 609** by Madla Intergovernmental Relations
Relating to clarification of municipal authority regarding abandoned swimming pools.
- S.B. 610** by Montford Jurisprudence
Relating to the probate of certain wills without the requirement of a court hearing.
- S.B. 611** by Cain Economic Development
Relating to certain criteria for enforceability of an indemnification agreement or release agreement.
- S.B. 612** by Luna, Madla Health and Human Services
Relating to certain nursing home services funded through the state Medicaid program.
- S.B. 613** by Galloway Criminal Justice
Relating to the offense of unlawful carrying of a handgun.
- S.B. 614** by Wentworth State Affairs
Relating to the authority of a law enforcement agency to establish a checkpoint on a street or highway to determine whether persons are in compliance with certain traffic laws or are driving while intoxicated.
- S.B. 615** by Barrientos Education
Relating to parental consent for certain public school district actions toward a student.
- S.B. 616** by Barrientos Education
Relating to parental involvement and rights in public education.
- S.B. 617** by Barrientos Education
Relating to the creation of an office of parental involvement at the Central Education Agency.
- S.B. 618** by West State Affairs
Relating to a report prepared by and information required by the General Services Commission under the historically underutilized businesses program.
- S.B. 619** by Gallegos Criminal Justice
Relating to the files and records of children who engage in certain conduct.

S.B. 620 by Cain Criminal Justice
Relating to employment of county residents at Texas Department of Criminal Justice facilities.

S.B. 621 by Harris State Affairs
Relating to the requirement that licensing agencies share certain background information with regard to license applicants and license holders.

S.B. 622 by Harris Jurisprudence
Relating to the establishment and operation of a domestic relations office; providing a penalty.

S.B. 623 by Harris Economic Development
Relating to enforcement by political subdivisions of the National Flood Insurance Program; providing a civil penalty.

S.B. 624 by Harris Jurisprudence
Relating to the appointment of bailiffs for the 371st District Court.

S.B. 625 by Harris Finance
Relating to the filing of a notice of protest with an appraisal review board by an undesignated agent.

S.B. 626 by Armbrister Natural Resources
Relating to certain laws governing water districts and nonprofit water or sewer service corporations; creating penalties.

S.B. 627 by Truan International Relations, Trade, and Technology
Relating to authorizing the Texas State Library and Archives Commission to negotiate an agreement with the appropriate authorities in Mexico for the exchange of certain Alamo and San Jacinto battle flags.

S.B. 628 by Madla, West Health and Human Services
Relating to access to pharmaceutical services through certain managed care health plans.

S.B. 629 by Wentworth Health and Human Services
Relating to the regulation of the fitting and dispensing of hearing instruments.

S.B. 630 by Ellis Criminal Justice
Relating to the disposition of a juvenile who damages property with graffiti, to law enforcement records relating to a child who uses a graffiti tag, and to the criminal responsibility of a parent for a child's criminal mischief involving graffiti; providing a penalty.

S.B. 631 by Ellis Intergovernmental Relations
Relating to the duties of housing finance corporations.

S.B. 632 by Rosson State Affairs
Relating to bicycle safety.

S.B. 633 by Ellis Education
Relating to authorizing the issuance of tuition revenue bonds for Texas Southern University.

- S.B. 634** by Wentworth State Affairs
Relating to the regulation of real estate appraisers.
- S.B. 635** by West, Gallegos State Affairs
Relating to filing conduct surety bonds by certain alcoholic beverage permit or license holders.
- S.B. 636** by Henderson Jurisprudence
Relating to a suit filed seeking to withhold information requested under the open records law and to the parties to the suit.
- S.B. 637** by Ellis Health and Human Services
Relating to the establishment of a pilot program to develop electronic benefits transfer systems that permit the use of food stamps in farmers markets.
- S.B. 638** by Cain Jurisprudence
Relating to the creation of an additional judicial district in Rockwall County and to the composition of the 354th judicial district.
- S.B. 639** by Montford Criminal Justice
Relating to the juvenile justice system, including the adjudication and disposition of children; providing for penalties.
- S.B. 640** by Montford Finance
Relating to the imposition, collection, and enforcement of taxes.
- S.B. 641** by Montford Finance
Relating to administration and collection of certain insurance taxes.
- S.B. 642** by Montford Finance
Relating to the appraisal of property for ad valorem taxation and the assessment and collection of ad valorem taxes.
- S.B. 643** by Montford Finance
Relating to the administration, imposition, collection, and enforcement of mixed beverage taxes.
- S.B. 644** by Montford Finance
Relating to administration and collection of the franchise tax.
- S.B. 645** by Luna State Affairs
Relating to dismissal of certain traffic offenses on completion of a motorcycle operator training course.
- S.B. 646** by Barrientos State Affairs
Relating to the appointment or employment of veterans by public agencies.
- S.B. 647** by Barrientos Natural Resources
Relating to the involvement of the Texas Department of Licensing and Regulation in the regulation of water well pump installers.
- S.B. 648** by Truan, Ellis Natural Resources
Relating to limiting the authority of the Coastal Coordination Council to review the actions of agencies and subdivisions, defining the scope of the

coastal management program, and adding representatives of the State Soil and Water Conservation Board and the Texas Water Development Board to the Coastal Coordination Council.

S.B. 649 by Shapiro State Affairs
Relating to the construction of certain road projects in certain municipalities and counties.

S.B. 650 by Ratliff Natural Resources
Relating to the regulation of nonpoint source water pollution, stormwater discharges, wet weather water quality standards and control of sanitary sewer overflows.

S.B. 651 by Ratliff Natural Resources
Relating to an exemption from the requirement to obtain a water use permit for certain reservoirs used in surface coal mining operations.

S.B. 652 by Ratliff Natural Resources
Relating to an exemption from sand and gravel permitting requirements.

(Senator Truan in Chair)

GUEST PRESENTED

The Presiding Officer introduced to the Senate Congressman Gene Green of Houston.

The Senate welcomed Congressman Green.

(President in Chair)

SENATE BILL 505 REREFERRED

On motion of Senator Turner and by unanimous consent, **S.B. 505** was withdrawn from the Committee on Education and was rereferred to the Committee on Finance, Subcommittee on Veteran Affairs.

CAPITOL PHYSICIAN

Senator Patterson was recognized and presented Dr. J. C. Burns of West Columbia as the "Doctor for the Day."

The Senate welcomed Dr. Burns and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

CONCLUSION OF MORNING CALL

The President at 11:24 a.m. announced the conclusion of morning call.

SENATE BILL 297 ON SECOND READING

Senator Madla moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 297** be taken up for consideration at this time:

S.B. 297, Relating to the change of the name of the San Antonio State Chest Hospital to the Texas Center for Infectious Disease.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 297 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 436 ON SECOND READING

Senator Montford moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **C.S.S.B. 436** be taken up for consideration at this time:

C.S.S.B. 436, Relating to the regulation of certain facilities that advertise the provision of special care for residents with Alzheimer's disease and related disorders.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 436 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 436** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 418 ON SECOND READING

Senator Armbrister moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 418** be taken up for consideration at this time:

S.B. 418, Relating to the management of the Edwards Aquifer and the powers and duties of the Edwards Underground Water District.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Gallegos, Galloway, Harris, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Haywood, Luna.

Absent-excused: Sims.

SENATE BILL 418 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 418** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Gallegos, Galloway, Harris, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Haywood, Luna.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

SENATE BILL 165 ON SECOND READING

Senator Leedom moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 165** be taken up for consideration at this time:

S.B. 165, Relating to a certification of willingness not to appear and plead as an attorney in court by certain retired and former judges.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 165 ON THIRD READING

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 165** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 496 ON SECOND READING

Senator Madla moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 496** be taken up for consideration at this time:

S.B. 496, Relating to the contribution of vacation leave time by certain county employees to a county sick leave pool.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 496 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 496** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 509 ON SECOND READING

Senator Zaffirini moved that the regular order of business, Senate Rule 7.13, and Section 5 of Article III of the State Constitution be suspended and that **S.B. 509** be taken up for consideration at this time:

S.B. 509, Relating to clarifying the authority of the Health and Human Services Commission to delegate to a health and human services agency the authority to operate all or part of the Medicaid program and to the powers and duties of that agency.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 509 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 509** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote:
Yeas 30, Nays 0. (Same as previous roll call)

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider the following bills tomorrow:

S.B. 639

S.B. 593

MEMORIAL RESOLUTIONS

S.R. 259 - By Truan: In memory of Lieutenant Irvin M. Brown of Corpus Christi.

S.R. 260 - By Truan: In memory of Charles Etta Shaw of Corpus Christi.

S.R. 272 - By Barrientos: In memory of Robert Charles Witt of Austin.

CONGRATULATORY RESOLUTIONS

S.R. 262 - By Harris: Congratulating Justin McNitt of Arlington for his heroic action at Boles Junior High School.

S.R. 263 - By Harris: Congratulating George Davey of Arlington for his heroic action at Boles Junior High School.

S.R. 264 - By Ellis: Congratulating Hayyat Abdul Haqq and Tajudeen Rotimi Olajuwon on the occasion of their marriage.

S.R. 265 - By Ellis: Congratulating the John Osteen Program and Lakewood Television Productions on the occasion of their 12th anniversary.

S.R. 266 - By Ellis: Congratulating Texas Southern University graduate student Larry J. Allen for his selection as the University Transportation Centers 1995 Student of the Year.

S.R. 267 - By Ellis: Congratulating Carl Richie as he joins the law firm of Mayor, Day, Caldwell and Keeton.

S.R. 268 - By Ellis: Congratulating Alma D. Alexander who has been named Ombudsperson for Texas Southern University.

S.R. 269 - By Ellis: Congratulating Arthur M. Gaines, Jr., on his election as President of the Houston Independent School District Board for 1995.

S.R. 270 - By Ellis: Congratulating James Jackson on his appointment as Director of Facilities at the Port of Houston Authority.

S.R. 271 - By Barrientos: Recognizing the month of March as Kidney Awareness Month in Texas.

S.R. 277 - By Truan: Congratulating J. C. and Wanda Barr for being named recipients of the Citizens of the Year Award by the Port Aransas Chamber of Commerce.

S.R. 278 - By Truan: Designating February 22, 1995, as Community Action Day in Texas.

H.C.R. 61 - (Ratliff): Designating February 22, 1995, as Rusk County Day.

ADJOURNMENT

On motion of Senator Truan, the Senate at 12:06 p.m. adjourned, in memory of Dr. William Sands Harris and M. A. "Catfish" Smith, until 11:00 a.m. tomorrow.

APPENDIX

SIGNED BY GOVERNOR

(February 17, 1995)

S.C.R. 21	H.C.R. 7
S.C.R. 36	H.C.R. 68
S.C.R. 37	H.C.R. 79
S.C.R. 39	H.C.R. 80
S.C.R. 44	H.C.R. 82
H.C.R. 5	H.C.R. 84
H.C.R. 6	

SENT TO SECRETARY OF STATE

(February 20, 1995)

S.C.R. 30

In Memory**of****M. A. "Catfish" Smith**

Senator Sibley offered the following resolution:

(Senate Resolution 220)

WHEREAS, The Senate of the State of Texas joins the citizens of Waco in mourning the loss of M. A. "Catfish" Smith who died November 27, 1994; and

WHEREAS, A prominent sports figure, Catfish Smith was a member of the Texas Sports Hall of Fame, the East Texas State Hall of Fame, the Panhandle Sports Hall of Fame, and the Texas Association of Basketball Coaches Hall of Fame; and

WHEREAS, Considered a living legend, Mr. Smith was famous as a football and basketball player at East Texas State University in the early 1930s; his true fame, however, came from being a man who made champions out of others; and

WHEREAS, Only two years out of college, in the 1930s, he led the youth of the small Carey High School basketball team to the semifinals of the state tournament; the next year, Carey won the state title even though all classifications of schools competed with each other at that time; and

WHEREAS, During the 1940s, Catfish was the head football and basketball coach at Mount Vernon High School; during his seven years there, he accumulated a football record of 60-5-1 and a basketball record of 163-17; at the same time, he became the only high school coach in Texas history to produce undefeated teams in both football and basketball; and

WHEREAS, Mount Vernon High School won six straight district titles in football and one state and five regional titles in basketball; and

WHEREAS, In 1951, he returned to his alma mater to coach football; he lost two games that first season and then proceeded to win 39 victories in a row; his three-year record at East Texas State University was 30-2-1, and that included three Lone Star Conference championships and two Tangerine Bowl bids; and

WHEREAS, He moved to Baylor in 1959, where he coached freshman football until his retirement in 1984; Catfish was also responsible for the promotions for the Baylor University athletic department and led the Baylor Bears booster organization; and

WHEREAS, This illustrious gentleman was also active in civic affairs; he served as Waco city councilman from 1973 through 1977 and was mayor in 1976; he was a member of the

Central Texas Zoo Board of Directors, the Executive Board of CETA, the Heart of Texas Council of Governments, and the Board of Directors of the Waco Airport; and

WHEREAS, A vital part of his community, Catfish Smith was also a member of the Contributors Review Committee of Greater Waco and a member of the Civil Service Commission; his achievements contributed greatly to the development and progress of his city; and

WHEREAS, Catfish Smith's lasting legacy to his community is immeasurable; his presence will be keenly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 74th Legislature, hereby extend sincere condolences to his family: his wife, Nell Evans Smith; his son, Jimmy Smith; his stepdaughters, Lya McNeill and Melissa Flaut; and his stepson, Jay Scott Evans; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of M. A. "Catfish" Smith.

SIBLEY
RATLIFF

The resolution was read.

On motion of Senator Leedom and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sibley, the resolution was adopted by a rising vote of the Senate.